REMARKS

1. <u>Present Status of Patent Application</u>

This is a full and timely response to the outstanding final Office Action mailed October 5, 2005. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

2. <u>Examiner Interview</u>

Applicant first wishes to express his sincere appreciation for the time that Examiner Chang spent with Applicant's Attorney, Charles Griggers, during a telephone discussion on December 7, 2005 regarding the outstanding Office Action. During that conversation, the pending claims were discussed. In particular, Applicant's attorney suggested potential avenues in further distinguishing the claims from the cited art in order to advance prosecution, and the Examiner indicated that the claim amendments contained herein might be potentially beneficial. Applicant respectfully requests that the Examiner carefully consider this response and the amendments contained herein.

3. <u>Response to Rejection of Claims Under 35 U.S.C. § 103(a)</u>

In the Office Action, claims 1, 2, 4-11, and 14-16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Sumner* (U.S. Patent Application No. 2002/0061003) in view of *Pimentel* (U.S. Patent Publication No. 2003/0072451). Claim 17 stands rejected as allegedly being unpatentable over *Sumner* in view of *Pimentel* in further view of *Skladman* (U.S. Patent No. 6,400,810). Claims 18-28, 31-33, 35, 36, 40-45, and 47-50 stand rejected as allegedly being unpatentable over *Sumner* in view of *Pimentel* in further view of *Garakani* (U.S. Patent Publication No. 2002/0064137). Claims 34, 51, and 52 stand rejected as allegedly being unpatentable over *Sumner* in view of *Pimentel* in further view of *Skladman*. Claims 12 and 13 stand rejected as allegedly being unpatentable over *Sumner* in view of *Pimentel* in further view of *Ng* (U.S. Patent No. 6,640,301). Claims 29, 30, 37-39, and 46 stand rejected as allegedly being unpatentable over *Sumner* in view of *Pimentel* in further view of *Garakani* in further view of *Ng*. For a proper rejection of a claim under 35 U.S.C. § 103, the teachings of the cited art reference must suggest all the features of the claimed subject matter to one

of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. Claim 1

As provided in independent claim 1, Applicant claims:

> An apparatus for notifying a subscriber of new email messages located at a post office, comprising:
> *a wireless proxy email client in communication with a wireless network and a post office via an external network, the wireless proxy email client utilizing information from a file containing the subscriber's information to access the subscriber's email account at the post office at the external network, the wireless proxy email client retrieving a portion of an email message from the subscriber's account to uniquely identify the email message and sending a notification to a wireless device of the subscriber for alerting the subscriber of the email message at the post office enabling the wireless device to retrieve the email message directly from the post office.*

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Sumner* in view of *Pimentel* does not disclose, teach, or suggest at least "a wireless proxy email client in communication with a wireless network and a post office via an external network, the wireless proxy email client utilizing information from a file containing the subscriber's information to access the subscriber's email account at the post office at the external network, the wireless proxy email client retrieving a portion of an email message from the subscriber's account to uniquely identify the email message and sending a notification to a wireless device of the subscriber for alerting the subscriber of the email message at the post office enabling the wireless device to retrieve the email message directly from the post office," as recited in claim 1.

For example, *Sumner* discloses a system with a wireless messaging engine 320 which "functions as a messaging server for wireless messaging system subscribers. . . . The wireless messaging engine 320 receives the message from the Internet 215 . . . [and] determines the proper routing to the wireless subscriber unit 340." Para. 0036. Accordingly, *Sumner* appears to generally describe a system where a gateway sends or redirects email messages or portions of email messages (*e.g.*, an email message without attachments) to a wireless device. Further,

Pimentel appears to generally describe a system where an email server checks for new email messages for a user and sends notification message to a wireless client so that the wireless client can retrieve new email messages.

Therefore, each reference fails to disclose individually or in combination is a system featuring a wireless device, a messaging server or post office, and a proxy client where the proxy client checks for new messages on the messaging server (by retrieving a portion of a message that allows the proxy client to uniquely identify the messages and to determine whether the message is new) and sends a notification message to the wireless device of a new message so that the wireless device can retrieve the new message directly from the messaging server. In contrast, *Pimentel*, for example, discloses that a wireless device receives messages from the entity that also sends notification messages.

As a result, the proposed combination of *Sumner* in view of *Pimentel* fails to teach or suggest at least "a wireless proxy email client in communication with a wireless network and a post office via an external network, the wireless proxy email client utilizing information from a file containing the subscriber's information to access the subscriber's email account at the post office at the external network, the wireless proxy email client retrieving a portion of an email message from the subscriber's account to uniquely identify the email message and sending a notification to a wireless device of the subscriber for alerting the subscriber of the email message at the post office enabling the wireless device to retrieve the email message directly from the post office," as recited in claim 1.

Therefore, a *prima facie* case establishing an obviousness rejection by *Sumner* in view of *Pimentel* has not been made. Thus, claim 1 is not obvious under proposed combination and the rejection should be withdrawn.

b. Claims 2 and 3-17

If independent claim 1 is allowable over the cited art of record, then its dependent claims 2, 2 and 3-17 are allowable as a matter of law, because these dependent claims contain all the features and elements of their respective independent claim 1 and the cited references of *Skladman* and *Ng* fails to cure the deficiencies of the *Sumner* and *Pimentel* references.

Additionally and notwithstanding the foregoing reasons for the allowability of claims 2 and 3-17, these dependent claims recite further features/elements and/or combinations of features/elements (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Hence, there are other reasons why these dependent claims are allowable.

c. Claim 18

As provided in independent claim 18, Applicant claims:

> A system for notifying a subscriber of new email messages located at a post office, comprising:
>
> *a wireless proxy email client in communication with a wireless network and a post office via an external network, the wireless proxy email client utilizing information from a file containing the subscriber's information to access the subscriber's email account at the post office, the wireless proxy email client retrieving a portion of a new email message to determine whether the subscriber has been notified of the new email message previously and sending a notification to a wireless device of the subscriber for alerting the subscriber of the new email message at the post office enabling the wireless device to retrieve the email message directly from the post office if the subscriber has not been notified previously about the new email message.*

(Emphasis added).

Applicant respectfully submits that independent claim 18 is allowable for at least the reason that *Sumner* in view of *Pimentel* in further view of *Garakani* does not disclose, teach, or suggest at least "a wireless proxy email client in communication with a wireless network and a post office via an external network, the wireless proxy email client utilizing information from a file containing the subscriber's information to access the subscriber's email account at the post office, the wireless proxy email client retrieving a portion of a new email message to determine whether the subscriber has been notified of the new email message previously and sending a notification to a wireless device of the subscriber for alerting the subscriber of the new email message at the post office enabling the wireless device to retrieve the email message directly from the post office if the subscriber has not been notified previously about the new email message," as recited in claim 18.

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For example, *Sumner* discloses a system with a wireless messaging engine 320 which "functions as a messaging server for wireless messaging system subscribers. . . . The wireless messaging engine 320 receives the message from the Internet 215 . . . [and] determines the proper routing to the wireless subscriber unit 340." Para. 0036. Accordingly, *Sumner* appears to generally describe a system where a gateway sends or redirects email messages or portions of email messages (*e.g.*, an email message without attachments) to a wireless device. Further, *Pimentel* appears to generally describe a system where an email server checks for new email messages for a user and sends notification message to a wireless client so that the wireless client can retrieve new email messages, and *Garakani* appears to describe a system with modem gateways that notify each other of an active data segment.

Therefore, each reference fails to disclose individually or in combination is a system featuring a wireless device, a messaging server or post office, and a proxy client where the proxy client checks for new messages on the messaging server (by retrieving a portion of a message that allows the proxy client to uniquely identify the messages and to determine whether the message is new) and sends a notification message to the wireless device of a new message so that the wireless device can retrieve the new message directly from the messaging server. In contrast, *Pimentel*, for example, discloses that a wireless device receives messages from the entity that also sends notification messages.

As a result, the proposed combination of *Sumner* in view of *Pimentel* in further view of *Garakani* fails to teach or suggest at least "a wireless proxy email client in communication with a wireless network and a post office via an external network, the wireless proxy email client utilizing information from a file containing the subscriber's information to access the subscriber's email account at the post office, the wireless proxy email client retrieving a portion of a new email message to determine whether the subscriber has been notified of the new email message previously and sending a notification to a wireless device of the subscriber for alerting the subscriber of the new email message at the post office enabling the wireless device to retrieve the email message directly from the post office if the subscriber has not been notified previously about the new email message," as recited in claim 18.

Therefore, a *prima facie* case establishing an obviousness rejection by *Sumner* in view of *Pimentel* in further view of *Garakani* has not been made. Thus, claim 18 is not obvious under proposed combination and the rejection should be withdrawn.

d. Claims 19-34

If independent claim 18 is allowable over the cited art of record, then its dependent claims 19-25 and 31-34 are allowable as a matter of law, because these dependent claims contain all the features and elements of their respective independent claim 18 and the cited references of *Skladman* and *Ng* fails to cure the deficiencies of the *Sumner*, *Pimentel*, and *Garakani* references.

Additionally and notwithstanding the foregoing reasons for the allowability of claims 19-34, these dependent claims recite further features/elements and/or combinations of features/elements (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Hence, there are other reasons why these dependent claims are allowable.

e. Claim 35

As provided in independent claim 35, Applicant claims:

> A method for notifying a subscriber of new email messages located at a post office, comprising:
> establishing communication with a wireless proxy email client via an external network;
> utilizing a subscriber's information contained in a file to access the subscriber's email account at the post office;
> *retrieving a portion of an email message by the wireless proxy email client from the post office to uniquely identify the email message;*
> *determining whether the subscriber has been previously notified about the email message; and*
> *sending a notification to a wireless device of the subscriber for alerting the subscriber of the new email message at the post office about which the subscriber has not been previously notified enabling the wireless device to retrieve the email message directly from the post office.*

(Emphasis added).

Applicant respectfully submits that independent claim 35 is allowable for at least the reason that *Sumner* in view of *Skladman* does not disclose, teach, or suggest at least the features

of "retrieving a portion of an email message by the wireless proxy email client from the post office to uniquely identify the email message; determining whether the subscriber has been previously notified about the email message; and sending a notification to a wireless device of the subscriber for alerting the subscriber of the new email message at the post office about which the subscriber has not been previously notified enabling the wireless device to retrieve the email message directly from the post office," as recited in claim 35.

For example, *Sumner* discloses a system with a wireless messaging engine 320 which "functions as a messaging server for wireless messaging system subscribers. . . . The wireless messaging engine 320 receives the message from the Internet 215 . . . [and] determines the proper routing to the wireless subscriber unit 340." Accordingly, *Sumner* appears to generally describe a system where a gateway sends or redirects email messages or portions of email messages (*e.g.*, an email message without attachments) to a wireless device. Further, *Pimentel* appears to generally describe a system where an email server checks for new email messages for a user and sends notification message to a wireless client so that the wireless client can retrieve new email messages, and *Garakani* appears to describe a system with modem gateways that notify each other of an active data segment.

Therefore, each reference fails to disclose individually or in combination is a system featuring a wireless device, a messaging server or post office, and a proxy client where the proxy client checks for new messages on the messaging server (by retrieving a portion of a message that allows the proxy client to uniquely identify the messages and to determine whether the message is new) and sends a notification message to the wireless device of a new message so that the wireless device can retrieve the new message directly from the messaging server. In contrast, *Pimentel*, for example, discloses that a wireless device receives messages from the entity that also sends notification messages.

As a result, the proposed combination of *Sumner* in view of *Pimentel* in further view of *Garakani* fails to teach or suggest at least "retrieving a portion of an email message by the wireless proxy email client from the post office to uniquely identify the email message; determining whether the subscriber has been previously notified about the email message; and sending a notification to a wireless device of the subscriber for alerting the subscriber of the new email message at the post office about which the subscriber has not been previously notified

enabling the wireless device to retrieve the email message directly from the post office," as recited in claim 35.

Therefore, a *prima facie* case establishing an obviousness rejection by *Sumner* in view of *Pimentel* in further view of *Garakani* has not been made. Thus, claim 35 is not obvious under proposed combination and the rejection should be withdrawn.

f. Claims 36-52

If independent claim 35 is allowable over the cited art of record, then its dependent claims 36-52 are allowable as a matter of law, because these dependent claims contain all the features and steps of their respective independent claim 35 and the cited references of *Skladman* and *Ng* fails to cure the deficiencies of the *Sumner*, *Pimentel*, and *Garakani* references.

Additionally and notwithstanding the foregoing reasons for the allowability of claims 36-52, these dependent claims recite further features/steps and/or combinations of features/steps (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Hence, there are other reasons why these dependent claims are allowable.

CONCLUSION

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. In addition, Applicant does not intend to admit anything regarding any other statements in the Office Action that is not explicitly referenced in this response. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

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